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Ontario, Environmental Assessment Board.

EP-92-06

GREEN LANE LANDFILL - TOWNSHIP OF SOUTHWOLD DECISION AND
REASONS FOR DECISION. COSTS DECISION. 1994.

CAZONEA 94E06

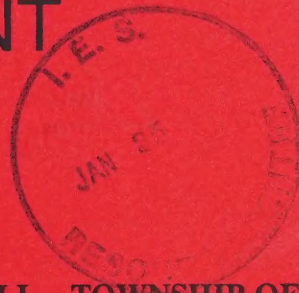
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ENVIRONMENTAL ASSESSMENT BOARD

EP-92-06



**GREEN LANE LANDFILL - TOWNSHIP OF SOUTHWOLD
DECISION AND REASONS FOR DECISION**

COSTS DECISION

IN THE MATTER OF the *Environmental Protection Act*, R.S.O. 1990,
c. E. 19, and the *Intervenor Funding Project Act*, R.S.O. 1990, c. I-13;

- and -

IN THE MATTER OF an application by Green Lane Landfill, a division of
St. Thomas Sanitary Collection Service Limited, for a five year interim
expansion of the Green Lane Landfill site located on Part of Lot 21, 22, and
23, Concession III, Township of Southwold, Elgin County.

INST. FOR ENVIRONMENTAL STUDIES
UNIVERSITY OF TORONTO



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BEFORE: Len Gertler

- Chair

RELEASED at TORONTO this 11th day of JANUARY, 1994

2300 Yonge Street

Suite 1201

Toronto, Ontario M4P 1E4

Tel: (416) 323-4806

IN THE MATTER OF the *Environmental Protection Act*, R.S.O. 1990, c. E. 19, and the *Intervenor Funding Project Act*, R.S.O. 1990, c. I-13;

- and -

IN THE MATTER OF an application by Green Lane Landfill, a division of St. Thomas Sanitary Collection Service Limited, for a five year interim expansion of the Green Lane Landfill site located on Part of Lot 21, 22, and 23, Concession III, Township of Southwold, Elgin County.

BEFORE: Len Gertler - Chair

COSTS DECISION

Having reviewed the submissions of the applicant for costs, Southwold Against Dumping ("SAD"), by their counsel, Mr. Corbett, and of the proponent by its counsel, Mr. Wright, I have determined the following costs to be payable:

The total claim for legal fees, including a claim for \$5,000 for the time spent in the costs assessment process, is for \$78,430.36.

Mr. Corbett claims at a rate of \$200 per hour; Mr. Wright argues that he should be paid at a rate of \$165 per hour. I believe a rate of \$176 per hour recognizes Mr. Corbett's status as senior counsel appropriately, a rate which is the usual maximum Government rate for senior counsel. Mr. Wright agrees that \$105 per hour is appropriate for Mr. McLeod, junior counsel.

SAD claims 194.4 senior hours and 283.3 junior hours to June 15, 1993. In addition, Mr. Corbett claims \$5,000 for time spent on the costs process. Mr. Wright has argued that, given the role played by Mr. Moncrief as case manager, the junior hours are excessive. I agree to the extent that Mr. McLeod attended the hearing with Mr. Corbett, and therefore disallow 60 of the junior hours. I also am not persuaded that allowing full costs to counsel for the time spent pursuing their costs claims will encourage the settlement of these claims. I therefore disallow one-half of the additional \$5,000.



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Applying the rates above, with these disallowances, would give a total cost award of \$64,372.16 inclusive of GST, for legal fees.

I acknowledge the principle argued for by Mr. Wright that legal fees should generally be lower for shortened hearings, although I note that the negotiation process is also time-consuming, and requires preparation time. In this case Mr. Corbett has submitted a specific claim for time devoted to this intervention. It reflects considerably fewer hours of his time than were projected in the funding award, and I do not find his claim unreasonable. Subtracting sums paid in intervenor funding relating to legal fees (\$9,590.47) gives final costs payable in the amount of \$54,781.69 in relation to legal fees.

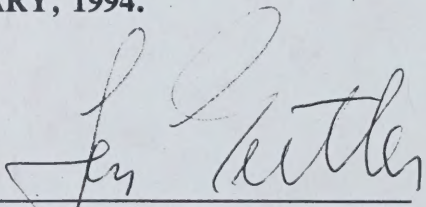
I do not believe it is reasonable to request a 10% contribution from this intervenor. A contribution in kind was in effect made by the group through the raising of pertinent issues on behalf of interested members of the community, and its role in communicating with community members on the hearing process and substantive matters dealt with in the hearing.

Legal disbursements of \$5,099.58 are also to be paid.

I am content, after reviewing the agreement, not to disturb the costs already agreed upon for experts and case manager.

I therefore order total costs of \$59,881.27 to be paid by the proponent to counsel for SAD, in trust.

DATED at TORONTO this 11th day of JANUARY, 1994.



L. Gertler, Chair

